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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,119	07/28/2003	Allan Lat		3072

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ALLAN LAT
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28822 EL MIO LANE
MISSION VIEJO, CA 92692

EXAMINER

VANATTA, AMY B

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/628,119	Applicant(s) LAT, ALLAN	
	Examiner Amy B. Vanatta	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because they use separate figure numbers (e.g. "Fig. 2-1", "Fig. 2-2", etc. to designate various elements within the figure (e.g. within Fig. 2).
- 2). The reference numerals which indicate specific elements within the figure should merely be numbers (e.g. "1", "2", etc.), not including the word "Fig." A figure is not an individual element, but rather is the overall drawing itself.

Also, Fig. 1. and Fig 5 should include reference numerals indicating important elements which are shown (these figures include no reference numerals).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The Brief Description of the Drawings" should not provide a description of the individual reference numerals indicting elements shown in the figures. The Brief Description of the Drawings should merely provide a brief description for each separate drawing, i.e. in the case of this application, for Fig. 1, Fig. 2, Fig. 3, Fig. 4., and Fig. 5. The description of the individual elements shown in these figures should be provided in the Detailed Description of the Drawings (see related "Drawing" objection above).

Also, the word "Description" in the heading appearing in the middle of page 4 of the specification is misspelled as "Discription".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Regarding claims 1-4, the phrase "or the like" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

The claims are replete with terms lacking proper antecedent basis, for example in claim 1, "the top 5 inches extending side edges" and "the outermost longitudinal edges"; claim 2, "the tensile opening memory" and "the crease"; claim 3, "the top most corner", etc.

The claims are rendered indefinite by the limitations provided in parentheses (e.g. "(25 microns)" in claim 1, "(10 mil)" in claim 2, "[heat-sealed or attached]" in claim 4, etc.) since it is unclear whether these limitations are being claimed as forming part of the claimed invention.

Claim 2 recites "an insert" in line 1, however claim 1 previously recited an insert (line 5). It is unclear whether the insert recited in claim 2 is the insert which was recited in claim 1. It appears that claim 2 should be further limiting the insert which was recited in claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roessler (US 4,649,572).

Roessler discloses a bib comprising a single sheet body member (12) made of plastic (col. 2, lines 56-59), or more specifically, made of a liquid impermeable polyethylene material (col. 2, lines 63-65). The bib has a single end member which is folded longitudinally as claimed (20), extends transversely across the bib, and is heat sealed along the outermost longitudinal edges to create a pocket end bottom portion (see pocket 28 and col. 3, line 30, disclosing that the side edges are thermally bonded).

The pocket includes a pocket insert (40) which helps to maintain the pocket in open configuration. The bottom portion is tapered longitudinally along the pocket (see Fig. 4 and col. 3, lines 38-44). The top is also tapered longitudinally (see uppermost left and right corners which have tapered edges forming the curved corners, or see the inner edges of the shoulder regions which are tapered to form the lower neck cutout).

Although Roessler does not disclose that the taper of the upper portion of the bib is for the purpose of creating free arm movement, such a recitation does not further define the claimed structure over that of Roessler. Regarding the recitations in claim 1 of the dimensions of the bib (i.e. the bib being 17 inches in length, 14 inches laterally, the pocket being 4 inches deep, and the top taper being along 5 inches of the bib), it is within the routine skill in the art to determine the optimal dimensions of the bib depending upon the size of the intended wearer and the desired end use (i.e. depending upon the surface area needed to be protected). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Roessler as having the claimed dimensions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Roessler as having the claimed dimensions, since a mere change in size is generally regarded as within the routine skill in the art.

Regarding claim 4, the bib includes a tab (40) which is permanently attached to the center bottom of the pocket as claimed (see outwardly extending portion of tab 40

as shown in Fig. 4 which can be grasped by a user). The tab is made of adhesive tape material (col. 4, lines 41-52 and 47-52), which is a material which is "like" polyethylene to the extent recited in claim 4, line 1.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander et al (US 3,407,407).

Hollander et al disclose a bib comprising a single sheet body member (12) made of plastic (col. 4, line 9), or made of a material which is "like" polyethylene to the extent recited in claim 1, line 2 (see material disclosed in col. 2, lines 48-50 and col. 4, line 9). The bib has a single end member which is folded longitudinally as claimed (see member 28 in Figs. 1 and 3), extends transversely across the bib, and is heat sealed along the outermost longitudinal edges to create a pocket end bottom portion (col. 2, lines 50-53 and col. 3, lines 34-38). The pocket includes a pocket insert (see 52; Fig. 8) which helps to maintain the pocket in open configuration. The bottom portion is tapered longitudinally along the pocket as can be seen in Fig. 2 of Hollander. The top is also tapered longitudinally at 16 and 18 (see Fig. 2) for free arm movement. Regarding the recitations in claim 1 of the dimensions of the bib (i.e. the bib being 17 inches in length, 14 inches laterally, the pocket being 4 inches deep, and the top taper being along 5 inches of the bib), it is within the routine skill in the art to determine the optimal dimensions of the bib depending upon the size of the intended wearer and the desired end use (i.e. depending upon the surface area needed to be protected). It is noted that Hollander teaches that the pocket may be 6 inches in height, or may have a greater or

lesser height "to conform to the size of the particular bib construction" (col. 3, lines 1-5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Hollander et al as having the claimed dimensions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Hollander et al as having the claimed dimensions, since a mere change in size is generally regarded as within the routine skill in the art.

Regarding claim 2, Hollander shows insert 52 which is slightly wider than the pocket (see Fig. 8, which shows the insert as being bowed; the insert when flat is wider than the pocket). The insert 52 assists in keeping the pocket in open configuration. The pocket is created by folding and forming a crease, creating a V shape as claimed, and the insert 52 is inserted and heat sealed inside of the pocket fold (see Fig. 7 and col. 3, lines 34-38). An expandable, extending V-shaped pocket is thus provided (Figs. 6-7) as claimed. The pocket insert member 52 is made of plastic (col. 3, lines 40-43), plastic being a material which is "like" polypropylene to the extent recited in claim 2. The insert 52 is of sufficient thickness to provide substantial strength, rigidity, and tensile opening member (col. 3, lines 40-58) as claimed.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander et al (US 3,407,407) in view of Frye (US 6,334,220).

Hollander et al disclose a bib as claimed, however the neck strap is not disclosed as including a perforation and being attachable to a tape strip as in claim 3. Frye discloses a bib including such a neck strap configuration. The neck strap of Frye has a line of perforations (62) at one side of the neck strap (see, e.g., the left side shown in Fig. 8). The neck strap has another end (see the right side in Fig. 8) which can be attached (and reattached as desired) to the opposite upper most corner of the bib by adhering it to peel away tape strip 64 (col. 4, lines 7-16). The first mentioned end of the neck strap (i.e. the end shown on the left on in Fig. 8), in the case that it is not torn and reattached by means of the adhesive, is "permanently" attached to the extent claimed. Also see col. 2, lines 55-61, which disclose that perforations which permit rapid removal of the bib in the event of emergency may be provided at any place along the length of the support. Frye also teaches that the perforations and tape strip provided for the neck strap permit the shortening of the neck straps to any desired length to accommodate various sized wearers (col. 4, lines 14-16). The neck strap of Frye and that of Hollander are made of material which is "like" polyethylene to the extent recited in claim 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the neck strap of Hollander as being of the type disclosed by Frye which includes perforations and an end attachable to a tape strip, in order to permit the shortening of the neck straps to any desired length to accommodate various sized wearers and/or to permit the rapid removal of the bib in the event of emergency, as taught by Frye. It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the neck strap to the bib of

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Hollander modified in view of Frye by means of heat sealing, as recited in claim 3, since Hollander does teach the use of heat sealing to connect various components of the bib, and heat sealing is a conventional means of attaching in the art. Although Frye does not specifically disclose that the perforations are 1.5 inches above the location where the neck strap attaches to the bib body portion, it is within the routine skill in the art to determine the optimal location for the perforations depending upon the desired end use and the size of the intended wearer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Hollander et al modified in view of Frye as having the perforations at a location 1.5 inches above the point of attachment with the bib body portion, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

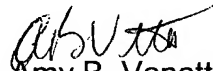
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is 703-308-2939. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Amy B. Vanatta
Primary Examiner
Art Unit 3765